IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.11.2006

CORAM:

THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA

CONTEMPT PETITION No.68 of 2006
and
Sub-Application No.24 of 2006

N.Thakkarajan .. Petitioner

vs.

1. Mr.Vasudevan,
The Chairman and Managing Director,
Tamil Nadu Leather Development Corp. Ltd.,
52, Krishna Road,
Perambur,
Chennai-600 012.

2. Mr.S.Gurumoorthy, IAS.,
The Chief Executive Officer,
Tamil Nadu Khadi & Village Industries Board,
Kuralagam,
Chennai-600 104. .. Respondents

Contempt Petition filed to punish the respondents for Contempt of court committed by them by showing wilful disobedience of the order of this Court made in W.P.No.9343 of 2001, dated 3.12.2003.

For petitioner : Mr.O.R.Abul Kalam

For respondent-2 : Mr.S.Packiaraj

ORDER

This Contempt Petition has been filed alleging disobedience of my order dated 3.12.2003 passed in W.P.No.9343 of 2001.

2. The challenge in the writ petition W.P.No.9343 of 2001 was to the order of the first respondent dated 9.4.2001 relieving the petitioner from service. The writ petition was allowed and the order of the first respondent dated 9.4.2001 was set aside. Subsequent to the relieving order, the petitioner was also issued with a cheque for Rs.2,86,644/- representing his terminal benefits along with a statement, dated 10.4.2001. Though the petitioner received the said cheque, the same was not encashed by him. It was also not returned to the first respondent. When the writ petition was being heard, the petitioner filed the said cheque along with a Memo dated 20.11.2003. When the writ petition came to be allowed on 3.12.2003, the returned cheque was handed over to the counsel for the first respondent. Thereafter, the petitioner came forward with W.P.M.P.No.5549 of 2004 contending that he approached the second respondent, namely the Chief Executive Officer of Khadi and Village Industries Board to permit him to join duty and that the same was not permitted and it was therefore prayed that the order dated 3.12.2003 should be modified or clarified and direction be issued to the second respondent-Chief Executive Officer to permit the petitioner to resume his service in the Khadi and Village Industries Board. The said W.P.M.P. was dismissed by order dated 8.4.2004 holding that, "I do not find any scope to either clarify or modify my order dated 3.12.2003. This petition is therefore dismissed". As against the order dated 8.4.2004 in the said W.P.M.P., the petitioner preferred Writ Appeal No.213 of 2005, which was also dismissed by a Division Bench of this Court, by judgment dated 22.6.2005, holding as under:

"When the W.A.M.P. was listed, the main W.A. itself was taken up by consent, since the matter falls within a very compass.

This writ appeal is filed against the order dated 8.4.2004.The petitioner was aggrieved by the relieving order issued by the first respondent on 9.4.2001. He challenged the same by filing W.P.No.9343 of 2001. This Court allowed that writ petition on 3.12.2003. Thereafter the writ petitioner/appellant herein filed W.P.M.P.No.5549 of 2004 for a direction to the second respondent herein to permit the appellant to resume his service. This petition was dismissed on 8.4.2004 by the impugned order, holding that there is no scope "to either clarify or modify the order dated 3.12.2003."

2. Learned counsel for the petitioner/appellant would submit that though the writ petition has been allowed, the respondents have driven him from pillar to post and he is not able to enjoy the fruits of the favourable order obtained by him. Therefore what the petitioner really wants is, executing the order passed by F.M.Ibrahim Kaliffulla, J on 3.12.2003. That cannot be done. If the petitioner is aggrieved by the disobedience of the respondents to comply with the order passed by this court, his remedy lies elsewhere. The WPMP was rightly dismissed by the learned Judge and we see no reason to interfere with the same. The writ appeal is therefore dismissed. Consequently, the connected WAMP is also dismissed. No costs."

Thereafter, the petitioner has come forward with this Contempt Petition.

3. Mr.O.R.Abul Kalam, learned counsel appearing for the petitioner contended that since the Division Bench has observed in its judgment dated 22.6.2005 that the remedy of the petitioner as against the disobedience of the respondents to comply with the order passed in Writ petition No.9343 of 2001, dated 3.12.2003 lies elsewhere, the petitioner has come forward with this Contempt Petition. In the course of his submissions, learned counsel contended that though in stricto-sensu, there cannot be disobedience of the order dated 3.12.2003 passed in the Writ Petition, since the petitioner has been driven from pillar to post after the Writ Petition was allowed by this Court on 3.12.2003, this Court should entertain the Contempt Petition in order to enable the petitioner to atleast get his terminal benefits.

4. I am afraid that the Contempt jurisdiction can be used to achieve any such purpose. In fact, the Division Bench in its judgment dated 22.6.2005, has made it clear that what the petitioner really wanted was, execution of the order passed on 3.12.2003 in the main Writ Petition, which cannot be done, and therefore, if the contention of the learned counsel for the petitioner is to be accepted and the Contempt Petition has to be entertained merely for the purpose of enabling the petitioner to get his terminal benefits settled, that will only amount to an exercise for executing the order dated 3.12.2003 passed in the main Writ Petition. The Contempt jurisdiction by no stretch of imagination can be used for achieving such ends. In this context, it would be appropriate to refer to the decision of a Division Bench of this Court reported in AIR 1970 Madras 14 (Abdul Razack vs. Azizunnissa Begum) wherein, Justice Natesan speaking for the Bench, has held as under:

"3. In Ramalingam v. Mahalinga Nadar, 78 Mad. L.W. 314 at p.315 = (AIR 1966 Mad 21 at p.22) we formulated the principle of contempt jurisdiction thus--

"Essentially contempt of Court is a matter which concerns the administration of justice and the dignity and authority of judicial tribunals; a party can bring to the notice of Court, facts constituting what may appear to amount to contempt of Court, for such action as the Court deems it expedient to adopt. But, essentially, jurisdiction in contempt is not a right of a party, to be invoked for the redressal of his grievances; nor is it a mode by which the rights of a party, adjudicated upon by a tribunal, can be enforced against another party."

If we may use what may be considered an irrelevant expression, having regard to the high function of a Court of justice, proceedings by way of contempt of Court should not be used as a 'legal thumbscrew' by a party against his opponent for enforcement of his claim. But that is what the petitioners have attempted in this case."

As held by the Division Bench in the above said decision (AIR 1970 MADRAS 14) of this Court , the contempt proceedings cannot be used as a 'legal thumb-screw' for achieving such ends.

5. After the Writ Petition was allowed on 3.12.2003 and the relieving order dated 9.4.2001 was set aside, if the respondents are not inclined to restore the position/status of the petitioner as was prevailing prior to the issuance of the relieving order, the petitioner can always work out his remedy for computation of his monetary benefits and for recovery of the same by approaching appropriate forum. The petitioner having got necessary legal assistance, can work out his remedy in appropriate manner before the appropriate forum. The Contempt jurisdiction cannot be used for executing the relief granted in W.P.No.9343 of 2001 in the order dated 3.12.2003.

6. Learned counsel for the second respondent represents that as against the order of this Court dated 3.12.2003 passed in W.P.No.9343 of 2001, the first respondent has preferred a Writ Appeal. Learned counsel however is not able to furnish the details of any such proceedings preferred by the first respondent.

7. Having regard to all the above stated circumstances, I do not find any scope to entertain this Contempt Petition and the same is accordingly dismissed. Sub-Application is closed. No costs.

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[PRV/8492]